

**RESOLUTION SUPERCEDING FEE SCHEDULE ESTABLISHED MARCH 29, 1989
PURSUANT TO SECTION 2941.51 OF THE OHIO REVISED CODE**

BY THE BOARD:

WHEREAS, the Board did establish, by resolution on July 21, 1976, a County Public Defender Commission; and

WHEREAS, the County Public Defender Commission resolved that the County Public Defender Office become operational on June 1, 1977; and

WHEREAS, Section 2941.51 of the Ohio Revised Code requires the Board of County Commissioners to establish a schedule of fees for the compensation of counsel appointed by the Court pursuant to Section 120.16(E) of the Ohio Revised Code; and

WHEREAS; the County Public Defender and the County Public Defender Commission have recommended modifications to the fee schedule adopted March 29, 1989; and

WHEREAS, the County Public Defender has requested that the Cincinnati Bar Association submit a recommendation for a schedule of fees for appointed counsel; and

WHEREAS, the Board desires to continue the effective representation provided by a voluntary panel of qualified attorneys; and

WHEREAS, the Board desires to adequately plan for annual indigent defense budgetary needs;

NOW THEREFORE, BE IT HEREBY RESOLVED by the Board of County Commissioners of Hamilton County, Ohio, that, effective April 3, 2000, the fee schedule established pursuant to Section 2941.51 of the Ohio Revised Code for the compensation of counsel appointed by the Court pursuant to Section 120.16(E) of the Ohio Revised Code shall be as follows:

The hourly rate of compensation for appointed counsel shall be forty dollars per hour for all new appointments and for all retrials, re-activations and post-conviction or post-dispositional procedures commenced on or after April 3, 2000. Payment will be made for each fully completed one half hour of service, subject to the maximums and limitations provided herein.

Hamilton County Municipal Court

A maximum of five hours shall be allowed for all misdemeanor cases for violations of the Ohio Revised Code which could result in the loss of liberty.

In the case of retrial, additional maximum hours shall be such as the Court deems reasonable within the limits of this resolution.

A maximum of one hour shall be allowed for post-conviction procedures, provided, however, that if the procedure entails an evidentiary hearing, then the maximum shall be three hours.

A maximum of three hours shall be allowed for felony cases that are dismissed, ignored or reduced to a misdemeanor by the Grand Jury, or in which services of counsel are otherwise terminated at or before Common Pleas arraignment.

Common Pleas General Division

Non-homicide cases:

A maximum of eight hours shall be allowed for cases terminated by dismissal without an evidentiary hearing, by withdrawal of counsel or by other termination not specifically provided herein.

A maximum of ten hours shall be allowed for cases terminated by a plea of No Contest or Guilty without an evidentiary hearing, by Treatment in Lieu of Conviction or by Diversion.

A maximum of fifteen hours shall be allowed for all cases terminated on the day of trial, but prior to the swearing in of the first witness or the impaneling of the jury.

A maximum of twenty hours shall be allowed for cases terminated by a trial to the Court; or plea, dismissal or other disposition after an evidentiary hearing.

A maximum of thirty hours shall be allowed for cases terminated by a trial to a jury.

In the case of retrial or re-activation, additional maximum hours shall be such as the Court deems reasonable within the limits of this resolution.

A maximum of ten hours shall be allowed for proceedings pursuant to 2953.21, Ohio Revised Code. In all other post-conviction procedures or insanity reviews, the maximum hours shall be three, provided, however, that procedures that entail an evidentiary hearing, a maximum of six hours shall be allowed.

Homicide cases:

In aggravated murder cases with death penalty specifications, two counsel shall be appointed and a maximum of five hundred hours shall be allowed for each such counsel, regardless of the manner in which the case is terminated.

In aggravated murder cases without specifications, one counsel shall be appointed and a maximum of two hundred hours shall be allowed, regardless of the manner in which the case is terminated.

In murder cases, one counsel shall be appointed and a maximum of one hundred hours shall be allowed, regardless of the manner in which the case is terminated.

In manslaughter cases or other homicides not specifically provided herein, one counsel shall be appointed and a maximum of fifty hours shall be allowed, regardless of the manner in which the case is terminated.

In the case of retrial, additional maximum hours shall be such as the Court deems reasonable within the limits of this resolution.

In the case of post-conviction procedures, the same maximum hours for non-homicide cases shall be allowed.

Common Pleas Juvenile Division

Dependency cases:

For Day One Hearing dates in which no cases are assigned and otherwise chargeable to a defendant, a maximum of four hours shall be allowed to compensate counsel for their availability to the Court.

In pre-dispositional Permanent Commitment proceedings, a maximum of forty hours shall be allowed.

In pre-dispositional Temporary Commitment proceedings, a maximum of twenty hours shall be allowed.

In post-dispositional proceedings, a maximum of four hours shall be allowed for each review hearing.

Other matters:

In custody cases, a maximum of ten hours shall be allowed, regardless of the manner in which the case is terminated.

In paternity, delinquency or other matters not specified herein, a maximum of four hours shall be allowed, provided, however, that in the event of a termination by trial or evidentiary hearing, a maximum of ten hours shall be allowed.

In the case of retrial or re-activation, additional maximum hours shall be such as the Court deems reasonable within the limits of this resolution.

First District Court of Appeals

A maximum of fifteen hours shall be allowed for appeals arising from a plea of No Contest or Guilty.

A maximum of thirty hours shall be allowed for appeals arising from a non-homicide trial or evidentiary hearing, and a maximum of fifty hours shall be allowed for appeals arising from a homicide trial or evidentiary hearing.

Supreme Court of Ohio

The Supreme Court of Ohio shall fix the maximum allowable hours.

Extraordinary and Miscellaneous Proceedings

In any matter not adequately provided for in the fee schedule due to the extraordinary nature of a case, the maximum allowable hours for counsel shall be established by special application and upon express approval by both the Court and the Public Defender through the journal entry of the Court. Only the hours that exceed fifty percent of the applicable maximum are to be eligible for and considered for compensation above the standard maximum fee limits. In all circumstances, the Court and the Public Defender reserve the right to award less than the extraordinary fee requested.

Expenses

In addition to compensation of counsel hereinbefore set forth, expenses for the defense of indigents shall be allowed and paid upon express approval of the Court through journal entry for: defense-requested transcripts; defense-requested depositions, including appointed counsel's travel and court reporting expenses; defense-requested expert witness services; and other such expenses of counsel necessary to provide an effective defense. In all circumstances, the Court reserves the right to award less than the expense requested.

Timely Submission of Counsel Vouchers, Bills and Expenses

All requests for full payment under this fee schedule must be made to the Public Defender Office within sixty days of termination of counsel's services. Requests for payments submitted after sixty days but before one hundred eighty days of termination will be reduced by fifty percent. Requests for payments submitted on or after one hundred eighty days of termination will be paid at a maximum of fifty percent, if at all, at the discretion of the Public Defender.

BE IT FURTHER RESOLVED that all attorneys providing service under this fee schedule must agree to comply with the Qualifications, Regulations and Standards of the Public Defender Commission; and

BE IT FURTHER RESOLVED that the Clerk of the Board be and she hereby is authorized to certify copies of this resolution to Michael Walton, Administrator of the Hamilton County Court of Common Pleas and Municipal Court; James Ray, Jr., Administrator, Hamilton County Juvenile Court; Thomas Rottinghaus, Administrator, First District Court of Appeals; and John Norwine, Executive Director, Cincinnati Bar Association.

ADOPTED at a regularly adjourned meeting of the Board of County Commissioners of Hamilton County, Ohio this ____ day of _____, 2000.

Mr. Bedinghaus _____ Mr. Dowlin _____ Mr. Neyer _____

CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution by this Board of County Commissioners in session the _____ day of _____, 2000.

Jacqueline Panioto, Clerk,
Board of County Commissioners
Hamilton County, Ohio